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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,990	06/30/2003	Earl Harling	NIDN-73132	6720
22840 GE HEALTHC	7590 12/20/2007 CARE BIO-SCIENCES (EXAMINER		
PATENT DEP		DOUGLAS, STEVEN O		
800 CENTENNIAL AVENUE PISCATAWAY, NJ 08855			ART UNIT	PAPER NUMBER
			3771	
			MAIL DATE	DELIVERY MODE
			12/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Disposition of Claims 10,009,990 HARLING ET AL.		Application No.	Applicant(s)				
## Examiner ## Stowen O. Douglas/ 3771 ## MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. **Examine of time may be available under the provisions of 37 CFR 1.138(a). In one work, no explains with the provisions of 37 CFR 1.138(a). In one work, nowwer, may a rapply be timely field. **Examine of time may be available under the provisions of 37 CFR 1.138(a). In one work, nowwer, may a rapply be timely field. **Examine of time may be available under the provisions of 37 CFR 1.138(a). In one work, nowwer, may a rapply be timely field. **Examine of time may be available under the provisions of 37 CFR 1.138(a). In one work to examine date of this communication. **Falux to keply within the set or extended paried for reply will, by fastuate cause the application to become ABANDONED (32 U.S.C. 5 133). **Falux to keply within the set or extended paried for reply will, by fastuate cause the application to become ABANDONED (32 U.S.C. 5 133). **Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. **Disposition of Claims** **Application of the above claim(s)							
Sileven O, Douglasi 3771	Office Action Summary						
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Exercises for some may be excelled ender the providence of 37 CPT 1.150, no ne event, however, may a reply be timely filed. If NO period for reply is specified above, the maximum statutory period will apply and well expire SIX (8) MONTHS from the mailing date of this communication. Plants on the providence of the communication of the providence of the communication of the providence of the communication. Plants of the providence of the communication of the providence of the communication. Plants action is FINAL. 2b) This action is FINAL. 2b) This action is final. 2b) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 9_f1 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 6) Claim(s) 9_f1 is/are plants of the providence of the communication of Claims 4) Claim(s) 1/2 is/are allowed. 6) Claim(s) 1/2 is/are objected to. 8) Claim(s) 1/2 is/are objected to. 8) Claim(s) 1/2 is/are objected to by the Examiner. 10) The providence of the providence							
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U.S. Patent and Trademark Office PTOL-326 (Rev. 08-06) Art Unit: 3771

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 9, the claim includes only a single "wherein" clause and lack language such as "comprising" or "consisting" which would indicate where the preamble would end and the body of the claim would begin. Examiner suggests adopting language such as - - comprising - - instead of "wherein" (line 1).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaeger' 502.

The Jaeger reference comprises a ventilation system (see Fig. 1) comprising an induction chamber containing a first compartment 10 with a means for the supply and removal of anesthetic (see the coaxial arrangement of elements 230 and 165) and a second compartment 5 connected to an inlet 230, wherein the escaping anesthetic passes into the second compartment and thence to the inlet (i.e. the escaping anesthetic coaxially surrounds the inlet and therefore meets the limitation of passing anesthetic to the inlet).

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In regard to claim 10, wherein the joining of the first compartment to the second compartment meets the limitation of selective closing of the passage defined by element 165.

In regard to claim 11, wherein the inlet 165 is located in the upper or top right portion of the second compartment and a ventilation hole 34 is located in a lower region thereof for receiving intake air from the nebulizer 35.

Response to Arguments

Applicant's arguments with respect to claims 9-11 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Steven O. Douglas/ whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven O. Douglas/ Primary Examiner Art Unit 3771

SD

12-17-07